UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD Eighteenth Region

CENTRAL PARKING SYSTEM¹

Employer

and

Case 18-RC-096169

INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 120

Petitioner

DECISION AND DIRECTION OF ELECTION

The Employer operates parking facilities in the Minneapolis and St. Paul, Minnesota metropolitan area (the Twin Cities metropolitan area). The Petitioner seeks to represent a multi-facility unit of all full-time and regular part-time valet attendants, ² cashiers and maintenance employees employed at all of those locations. The Employer contends that the unit sought by the Petitioner is not appropriate because the employees employed at the St. Paul facilities do not share a community of interest with their counterparts employed at the Minneapolis facilities. In addition, the Employer contends that valet attendants, cashiers and maintenance employees do not share a sufficient community of interest with each other to be represented in the same unit.

¹ The name of the Employer appears as amended at the hearing.

² The valet attendants are also referred to in the record simply as valets or attendants, some of which are called "leads." Neither party contends that the "leads" should be excluded as supervisors or otherwise.

There is no history of bargaining among the employees in the Twin Cities metropolitan area. The parties agree that the following positions should be excluded from any unit found to be appropriate: general manager, operations manager, supervisors, police officers, account specialists, auditors and the DOT driver.

Based on the entire record in this case and relevant Board cases, I find that the unit sought by the Petitioner is an appropriate unit for purposes of collective bargaining.³ In the pages that follow, I will first describe the Employer's operations in the Twin Cities metropolitan area. I will then turn to the question of unit scope; i.e., whether employees employed in St. Paul and Minneapolis can be included in the same unit. Finally, I will address the question of unit composition; i.e., whether valet attendants, cashiers and maintenance employees can be included in the same unit.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. A hearing officer of the Board held a hearing in this matter. The parties agreed to waive post-hearing briefs and argued their positions orally at the conclusion of the hearing. My conclusion that the petitioned-for unit is appropriate is based upon the following:

A. The Employer's Operations

The Employer manages parking facilities at various locations throughout the United States, including in the Twin Cities metropolitan area. The Employer's main Twin Cities metropolitan area office is located in Minneapolis. Personnel files and

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³ I take administrative notice of a Stipulated Election Agreement entered into by the parties and approved by then-Regional Director Robert W. Chester on September 6, 2006, in which the parties stipulated that a unit consisting of parking facilities in both Minneapolis and St. Paul and including maintenance employees was an appropriate unit. However, in reaching the conclusion that the petitioned-for unit is an appropriate unit, I have relied exclusively on the record herein, and not on the parties' prior stipulation.

payroll information for St. Paul and Minneapolis employees are maintained in Minneapolis. Human resource functions are performed by an individual based in Denver and by another based in Chicago. Employees are paid by direct deposit and can view their payroll information electronically. Payroll is handled at the corporate level.

The supervisory hierarchy as it relates to the Twin Cities metropolitan area is essentially the same at the upper echelons but varies somewhat at the facility level.

Beginning with the upper levels, there is a CEO and an executive vice president. A regional vice president reports to the executive vice president. The general manager in turn reports to the regional vice president. The supervisory chain splits between St. Paul and Minneapolis at the general manager level. Employees employed at the St. Paul facilities report to different immediate supervisors than do employees employed at the Minneapolis facilities.

The general manager is based in Minneapolis. Three on-site managers in St. Paul and three in Minneapolis report directly to him. However, the general manager's direct supervisory responsibility over employees in the unit petitioned for is limited to Minneapolis. His approval is required before a job can be posted for either St. Paul or Minneapolis. The record contains contradictory evidence concerning the role the general manager plays in establishing starting wage rates. The general manager conducts separate quarterly meetings for St. Paul and Minneapolis supervisors and employees. The general manager testified that the reason for this is that St. Paul and Minneapolis "are two totally different markets." He explained that, in St. Paul, 97 percent of the Employer's operations are on the campus of United Hospital

(which consists of a number of buildings and separate hospitals); in Minneapolis, the focus is on parking facilities in Class A buildings. The Employer's Human Resources Department and the general manager have to approve any transfers between the St. Paul and Minneapolis facilities. The general manager approves payroll for both St. Paul and Minneapolis.

The highest ranking individual in the St. Paul supervisory hierarchy is the operations manager. He is based in St. Paul. The operations manager reports to the general manager. The operations manager has oversight responsibility for the management and operations of the St. Paul parking facilities; his operational responsibility, if any, with respect to the Minneapolis facilities is unclear. There is also an assistant operations manager. An area manager oversees two St. Paul parking facilities. All of the foregoing are collectively referred to in the record as on-site managers. There are also two individuals who are referred to as hourly supervisors.

The supervisory structure in Minneapolis is somewhat different. The highest ranking official is the portfolio manager. There is also an assistant portfolio manager and an area manager. Again, these individuals are also referred to as on-site managers. There are four individuals who are referred to as hourly supervisors, and there is one who only works special events.

Employees corporate-wide, including employees at the St. Paul and Minneapolis parking facilities, have the same fringe benefits package. Employees at organized facilities have separate fringe benefits packages. There are no educational or licensure requirements for parking facility employees. Corporate-wide rules and an employee handbook, including a code of conduct, apply to all parking facility employees. In

Minneapolis, the starting wage rates for valet attendants are between \$7.75 and \$8.00 per hour; for cashiers, between \$8.25 and \$8.50 per hour; and for maintenance employees, \$11.00 per hour. The record does not contain equivalent information for St. Paul employees. Employees at the Minneapolis facilities wear uniforms that vary, depending upon the wishes of the client. Maintenance employees wear different uniforms than valet attendants and cashiers. All bear the Employer's logo. The record is silent concerning uniforms in St. Paul.

No employees work at facilities in both St. Paul and Minneapolis. The general manager testified that this would not be permitted because they are different markets, and employees trained for one would not be able to work in the other without appropriate training. Scheduling is done separately by on-site management for St. Paul and Minneapolis. An unspecified number of maintenance employees have transferred to cashier or valet attendant positions. St. Paul employees do not cover shifts for absent employees in Minneapolis, or vice versa. The St. Paul operations manager testified that on one occasion during the past seven years, "under extreme circumstances," he assigned a St. Paul employee to cover a shift in Minneapolis; and that if there was no one available to cover an absent St. Paul employee's shift, he or the assistant operations manager would have to cover it. He also testified that St. Paul employees "never" have a work-related reason to contact Minneapolis employees and that the St. Paul and Minneapolis facilities operate independently of each other. The Employer's general manager testified similarly with respect to Minneapolis employees. He further testified that on-site managers are responsible for filling vacancies at their

respective facilities. Employees in different classifications do not fill in for each other at either the St. Paul or the Minneapolis facilities.

Openings for parking facility positions are posted on-line. In St. Paul, the operations manager and/or the assistant operations manager interview prospective employees. The operations manager decides whether a particular individual should be hired. In Minneapolis, hiring decisions are made by the portfolio manager and the assistant portfolio manager. Employees can bid on open positions in either St. Paul or Minneapolis. An employee who transferred from one city to the other would maintain his or her seniority. The assistant manager does scheduling in St. Paul, and the on-site managers do so in Minneapolis. On-site managers handle discipline in both St. Paul and Minneapolis, at least up to the level of discharge. The Employer's Human Resources Department and the general manager become involved in discharge decisions. On-site management directs employees' daily work at the facilities they are assigned to in both St. Paul and Minneapolis. On-site management annually evaluates employees. Employees receive annual wage increases based on their performance. Scoring guidelines and maximum percentage increases are determined by corporate headquarters. Because the Employer bills its clients for its services, the clients have an indirect say in determining wages. A set of standard operating procedures for the St. Paul facilities was created by the assistant manager and approved by a former general manager. The same break policies apply to all St. Paul employees. All St Paul and Minneapolis employees clock in and out at the same locations in their respective facilities.

The Employer's operations in the St. Paul area consist of 11 parking facilities, including 6 ramps, 2 lots, 2 valet facilities and a shuttle service. The Employer manages but does not own these facilities. Nine of the facilities are located at hospitals; one is owned by the City of St. Paul; and one is owned by a realty company. In Minneapolis, the Employer's nine facilities are located in the central business district and include garages in office buildings, parking ramps and surface parking lots. Five of those lots are unstaffed. Customers with a problem at an unstaffed facility contact a customer service representative. Neither party contends that customer service representatives should be included in any appropriate unit.

In St. Paul, newly hired valet attendants and cashiers are trained by incumbents in their respective positions. Newly hired maintenance employees are trained by either the operations manager or an incumbent. In Minneapolis, cashiers are trained by an incumbent, and valets are trained by the on-site manager who is responsible for the facility. The St. Paul operations manager testified generally that valet attendants, cashiers and maintenance employees all perform different duties that do not overlap. With respect to Minneapolis, the general manager testified that at two facilities cashiers assist valet attendants in issuing customer tickets during the morning, but that otherwise there is no overlap in duties between valet attendants, cashiers and maintenance employees.

Cashiers deal directly with customers. Their duties include handling cash and operating a fee computer that determines the parking fee based on the time parked.

Cashiers work in an enclosed booth at the exits at 9 of the 11 facilities. They are not

required to have a valid driver's license. There are approximately 28 cashiers in St. Paul and 25 in Minneapolis.

Valet attendants also deal directly with customers. They work at two St. Paul facilities and two Minneapolis facilities. Valet attendants are required to have a valid driver's license and a clean driving record. They assist customers in exiting and entering their vehicles, and park and retrieve cars for customers. Like cashiers, valet attendants calculate parking fees and collect the fees from customers but do so manually. Vehicle keys are kept in a locked valet podium. There are approximately 8 valet attendants in St. Paul and 20 in Minneapolis.

Maintenance employees work at 10 of the 11 St. Paul facilities. They are required to be able to lift approximately 50 pounds and have a valid driver's license. Maintenance employee duties include such things as sweeping, shoveling snow, emptying garbage cans and counting empty spaces in the facility. There are approximately four maintenance employees in St. Paul and four in Minneapolis. Maintenance employees in Minneapolis are trained to handle hazardous materials and to work on equipment such as scrubbers, sweepers and power washers. The on-site managers provide this training.

None of the St. Paul facilities employs all three classifications of employees. The hours worked by St. Paul and Minneapolis cashiers, valet attendants and maintenance employees vary depending on the facility at which they work and the hours that the facility is open. In both St. Paul and Minneapolis, the three classifications of employees work overlapping but different shifts. Duties of St. Paul valet attendants, cashiers and maintenance employees vary somewhat depending on the facility where they work. In

Minneapolis, some, but not all, of the locations employ all three classifications. In both St. Paul and Minneapolis, employees in different classifications have daily contact with one another at facilities that employ two or more classifications.

B. Is the Petitioned-for Unit an Appropriate Unit?

The Act does not require a petitioner to seek representation of employees in the most appropriate unit possible, but only in an appropriate unit. Overnite Transportation, 322 NLRB 723 (1996). The presumption that a single-facility unit is appropriate is inapplicable where, as here, a union seeks a multi-facility unit. NLRB v. Carson Cable TV, 795 F.2d 879, 886-887 (9th Cir. 1986); Stormont-Vail Health Care, 340 NLRB 1205, 1209 fn. 10 (2003). In determining whether a petitioned-for multi-facility unit is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. Bashas', Inc., 337 NLRB 710, 711 (2002), citing Alamo Rent-A-Car, 330 NLRB 897 (2000); NLRB v. Carson Cable TV, 795 F.2d at 884. Applying these factors, the Board attempts to determine whether employees in the petitioned-for unit share a community of interest distinct from excluded employees. Such a unit can be based on a "coherent geographic grouping." Bashas', Inc., 337 NLRB at 711, citing See's Candy Shops, 202 NLRB 538 (1973).

In concluding that the employees employed at parking facilities in St. Paul and Minneapolis share a sufficient community of interest to be included in the same overall unit, I have taken into account the facts that there is little or no employee interchange between the two facilities; that there appears to be little or no functional integration; and

that employees at each facility have separate immediate supervision. The foregoing notwithstanding, the record in this case establishes that the general manager has at least some overall responsibility for operations throughout the Twin Cities metropolitan area. In addition, parking facility employees in both St. Paul and Minneapolis have similar skills and duties (even assuming that Minneapolis maintenance employees have greater responsibilities than their St. Paul counterparts). In addition, important terms and conditions of employment, including, in particular, fringe benefits, employee handbook and code of conduct, and an annual performance-based evaluation system, are the same for employees throughout the Twin Cities metropolitan area. Finally, the St. Paul and Minneapolis facilities are geographically proximate; i.e., they are all located within the Twin Cities metropolitan area, and there is no record evidence that the petitioned-for unit excludes other Employer parking facilities in that area. In these circumstances, I conclude that the two-facility unit sought by the Petitioner is a geographically coherent unit. Capitol Coors Co., 309 NLRB 322 (1992), (two-facility unit sought by petitioner found to be appropriate based on community of interest considerations). Cf. Basha's Inc., 337 NLRB at 711-712, (rejecting a county-wide unit as not being a "geographically coherent group" where there was another, proximate facility outside the county), and cases cited therein.

C. Do the Classifications of Employees in the Petitioned-for Unit Share a Community of Interest?

In determining whether employees in a proposed unit share a community of interest, the Board considers whether the employees sought are organized into a separate department; have distinct skills and training; have distinct job functions and

perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123 (2002). See also *Overnite Transportation*, 322 NLRB at 724.

In concluding that the record establishes that the valet attendants, cashiers and maintenance employees that the Petitioner seeks to represent share a sufficient community of interest to be represented together, I have taken into consideration the facts that these employees perform different duties, that the duties do not overlap to a significant degree, that the three classifications of employees do not interchange with each other, and that the employees in St. Paul and Minneapolis have separate immediate supervision. The forgoing notwithstanding, all of these employees perform functions related to the operation of parking facilities in the Twin Cities metropolitan area. At their respective facilities, all three classifications of employees report to the same supervisors and at the same locations. As noted above, all of these employees share many important common terms and conditions of employment. Moreover, there is no evidence that these classifications of employees have employment interests that otherwise differ in any significant respect. In addition, at least some of the employees have daily contact and interaction with employees in other classifications. Finally, no labor organization seeks to represent any of these employees in separate units. Accordingly, the employees in the petitioned-for unit share a sufficient community of interest with each other to permit their inclusion in the same parking facilities unit.

Syracuse University, 325 NLRB 162 (1997); Bettendorf's Select Foods, Inc., 85 NLRB 919, 920 (1949).

D. Conclusions

Based upon the entire record in this matter and for all of the reasons set forth above, I conclude that the petitioned-for unit is an appropriate unit and that the employees in the petitioned-for unit share a community of interest. I further conclude that:

- 1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.
- 2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁴
- 3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act, and it claims to represent certain employees of the Employer.
- A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and
 of the Act.
- 5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

12

⁴ The Employer, Central Parking System, a Tennessee corporation, is engaged in the management of parking facilities at various locations in the Minneapolis and St. Paul, Minnesota metropolitan area. During the past fiscal year, the Employer derived gross annual revenues in excess of \$500,000, and during the same period purchased goods and services in excess of \$5,000 directly from suppliers located outside the State of Minnesota.

All full-time and regular part-time valet attendants (including leads), cashiers and maintenance employees employed by the Employer at its facilities located in the Minneapolis and St. Paul, Minnesota metropolitan area; excluding all other employees, guards and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters Local 120. The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are

eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969).

Accordingly, it is directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before close of business **February 8, 2013**. No extension of time to file this list will be granted by the Regional Director except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlrb.gov,⁵ by mail, or by facsimile transmission at (612) 348-1785. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349

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⁵ To file the eligibility list electronically, go to <u>www.nlrb.gov</u> and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu, and follow the detailed instructions.

(1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **February 15**, **2013**. The request may be filed electronically through E-Gov on the Agency's website, www.nlrb.gov, 6 but may not be filed by facsimile.

Signed at Minneapolis, Minnesota, this 1st day of February, 2013.

/s/ Marlin O. Osthus

Marlin O. Osthus, Regional Director National Labor Relations Board Region 18 330 South Second Avenue, Suite 790 Minneapolis, MN 55401-2221

16

To file the request for review electronically, go to www.nlrb.gov, and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu and follow the detailed instructions. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Agency's website, www.nlrb.gov.